



**PLANNING COMMISSION
REGULAR MEETING AGENDA**

June 1, 2017

7:00 p.m.

- 1) Call to Order** – Chairman Theresa Stein
- 2) Pledge of Allegiance**
- 3) Agenda Amendments** (Planning Commission and Staff)
- 4) Commissioner Disclosures**
- 5) Public Hearings**
 - a) None Scheduled
- 6) Presentations**
 - a) None Scheduled
- 7) Discussion Items**
 - a) None Scheduled
- 8) Action Items**
 - a) OA16-06 – Amendment of Zoning Ordinance Article 11, Section 17 (“Administration and Enforcement”)
Note: Any Discussion Item may be added as an Action Item during the meeting by motion of the Planning Commission.
- 9) Information Items**
 - a) Status of Priority Work Items
 - b) Comprehensive Plan Update Status
- 10) Citizen Comments** – All citizens who wish to speak about an item or issue that is not listed for a public hearing will be given an opportunity to speak (3 minute limit per speaker).
- 11) Council Representative’s Report**
- 12) Chairman’s Comments**
- 13) Planning Commissioners’ Comments**
- 14) Approval of Minutes**
 - a) April 20, 2017 Regular Meeting
 - b) May 4, 2017 Regular Meeting
- 15) Adjournment**

If you require any type of reasonable accommodation as a result of physical, sensory or mental disability in order to participate in this meeting OR if you would like an expanded copy of this agenda, please contact the Department of Community Development at (540) 338-2304 at least three days in advance of the meeting. Expanded copies of the agenda may not be available the night of the meeting, please request a copy in advance.

USE OF ELECTRONIC DEVICES DURING MEETINGS For the comfort and consideration of others, all cellular phones must be turned off and cannot be used in the Council Chambers. Pagers must be set on silent or vibrate mode. This is requested because of potential interference with our recording devices and the transmittal of our hearing impaired broadcast.



PLANNING COMMISSION STAFF REPORT

ACTION ITEM

Item # 8.a.

SUBJECT: OA16-06 – Amendment of Zoning Ordinance Article 11, Section 17 (“Administration and Enforcement”)

DATE OF MEETING: June 1, 2017

STAFF CONTACTS: Patrick Sullivan, Director of Community Development
Sally Hankins, Town Attorney

SUMMARY and RECOMMENDATIONS:

The Town Attorney has reviewed and edited the draft ordinance establishing Civil Penalties, which was presented to the Planning Commission at its meeting on April 6, 2017. She advises that the ordinance may be moved forward for public hearing, subject to the Planning Commission adopting the motion provided in this Staff Report.

BACKGROUND:

The Town Council adopted Resolution 16-10-02, initiating an amendment to Zoning Ordinance Article 11, Section 17 to incorporate civil financial penalties as a mechanism for enforcing zoning violations. The Town is authorized to impose civil penalties for violations of the Zoning Ordinance under Virginia Code § 15.2-2209.

Under a system of civil penalties, a zoning violation would be processed by taking the following steps:

1. Zoning Administrator investigates violation
2. Zoning Administrator issues a Notice of Violation and gives notice of the “right to appeal” violation to the BZA. Appeal period is 30 days.
3. Zoning Administrator informs Town Attorney that a civil penalty should be imposed (provided that the 30-day appeal period has expired or the appeal was lost, and the violation has not been timely abated).
4. Town Attorney files a Warrant in Debt with the Loudoun County General District Court

5. General District Court has the violator served by the sheriff with a summons to appear in court
6. The violator either voluntarily pays the civil penalty prior to the court date, or appears in court to present his case. If the violator pays the penalty prior to the court date, the Town will non-suit (ie; drop) its claim.

ISSUES:

The Town Council initiated a Zoning Ordinance amendment to incorporate civil penalties into the Zoning Ordinance. However, the ordinance as proposed does more than incorporate civil penalties: it defines violations of the Zoning Ordinance, clarifies the Zoning Administrator's zoning enforcement authority, establishes civil penalties, establishes criminal penalties, and establishes injunctive and other equitable relief.

Because the proposed ordinance exceeds the scope of the amendment initiated by the Town Council under Resolution 16-10-02, the Planning Commission should properly initiate the expanded text amendment by adopting the proposed Motion.

BUDGET IMPACT:

Imposing civil penalties for zoning ordinance violations should result in new revenues for the Town and should diminish the expense associated with criminal enforcement of zoning violations.

MOTION:

"I move that the public necessity, convenience, general welfare, and good zoning practice require the Planning Commission to initiate an amendment to Zoning Ordinance Article 11, Section 17, to replace the existing text of Section 17 in its entirety as provided in the draft ordinance dated June 1, 2017, which draft ordinance clarifies what constitutes a "violation" of the Zoning Ordinance, clarifies the Zoning Administrator's zoning enforcement authority, establishes civil penalties, establishes criminal penalties, and establishes injunctive and other equitable relief. I further move that the Planning Commission direct staff to take all steps necessary and prudent to schedule and conduct a Planning Commission public hearing on the draft ordinance dated June 1, 2017."

ATTACHMENT:

1. Draft Ordinance dated June 1, 2017, replacing Article 11, Section 17 of the Town of Purcellville Zoning Ordinance and incorporating civil penalties.
2. Town Council Resolution 16-10-02

Article 11 Administration and Enforcement

Sections

- 17.1 Violations
- 17.2 Enforcement
- 17.3 Civil Penalties
- 17.4 Criminal Penalties
- 17.5 Injunctive Relief and Other Remedies

17.1 VIOLATIONS

The following are violations of the Zoning Ordinance and are declared to be unlawful:

- 1. Uses.** Any use of a structure, improvement or land, established, conducted, operated or maintained in violation of: any provision of the Zoning Ordinance, any approved proffers, special use permit, special exception, variance, certificate of design approval, site plan, waiver, modification, or condition accepted or imposed in conjunction with any Town approval under the Zoning Ordinance, or without any required permit, certificate or other required approval under the Zoning Ordinance.
- 2. Structures or improvements.** Any structure or development that is established, conducted, operated or maintained in violation of any provision of the Zoning Ordinance, any approved proffers, special use permit, special exception, variance, certificate of design approval, site plan, waiver, modification, zoning permit, or condition accepted or imposed in conjunction with any Town approval under the Zoning Ordinance, or without any required permit, certificate or other required approval under the Zoning Ordinance.
- 3. Structures without zoning permits.** Any structure for which a zoning permit application is required that is started, established, constructed, reconstructed, enlarged or altered without a zoning permit.
- 4. Use of structure or site without certificate of occupancy.** Any use of a structure or site for which a certificate of occupancy is required that is conducted, operated or maintained without a certificate of occupancy.
- 5. Requirements and standards.** The failure to comply with any other requirement or standard of the Zoning Ordinance.

17.2 ENFORCEMENT

The Zoning Administrator, which term as used in this Article includes designees of the Zoning Administrator, is authorized to enforce the Zoning Ordinance as follows:

1. Investigation. Upon receipt of a complaint or a request to investigate whether the Zoning Ordinance is being violated, the Zoning Administrator shall document the complaint or request and conduct an investigation.

2. Inspection warrants and search warrants. The Zoning Administrator is authorized to request and execute inspection warrants issued by a magistrate or court of competent jurisdiction to allow the inspection of dwellings, as authorized under Virginia Code § 15.2-2286(A)(15). The Zoning Administrator also is authorized to request and execute search warrants issued by a court of competent jurisdiction as provided by law. Prior to seeking an inspection warrant or a search warrant, the Zoning Administrator shall make a reasonable effort to obtain consent from the owner or tenant to enter the structure or property to conduct an inspection or search.

3. Subpoenas duces tecum (court order to produce records). Whenever the Zoning Administrator has reasonable cause to believe that any person has violated or is violating any Zoning Ordinance provision that limits occupancy in a dwelling unit and, after a good faith effort to obtain the data or information necessary to determine whether a violation has occurred, has been unable to obtain such information, he may request that the Town Attorney petition the judge of the General District Court for a subpoena duces tecum against any person refusing to produce the data or information, as authorized under Virginia Code § 15.2-2286(A)(4).

4. Notice of violation; exception. If, upon completion of the investigation, the Zoning Administrator determines that a violation of the Zoning Ordinance exists and determines to pursue enforcement, then a notice of violation ("**Notice of Violation**") shall be issued to (i) the owner of the property and (ii) the person committing or permitting the violation, or both.

A. Contents of Notice of Violation. The Notice of Violation shall include the following information:

- (i) the date of the notice;
- (ii) the name and address of the persons charged with committing or permitting the violation;
- (iii) the nature of the violation, including the section of the Zoning Ordinance allegedly violated;

- (iv) the location and date that the violation occurred or was observed;
- (v) a statement informing the recipient that the decision may be appealed to the Board of Zoning Appeals within the applicable appeal period provided in Article 9: Board of Zoning Appeals and that the decision shall be final and unappealable if it is not timely appealed;
- (vi) the applicable appeal fee;
- (vii) a reference to where additional information may be obtained regarding filing an appeal; and
- (viii) the time within which the violation must be abated in order to avoid civil penalty, criminal charges, or other legal action.

B. Delivery of Notice of Violation. The Zoning Administrator may deliver the notice of violation by: hand delivery to an occupant of the property, posting said notice on the door of a building on the property, or mailing said notice by regular or certified mail; provided, however, that notice to the property owner, sent by certified mail to, or posted at, the address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall satisfy the notice requirements of this section.

5. Remedies. In the enforcement of the Zoning Ordinance, the Zoning Administrator may pursue any remedy authorized by law. The remedies provided in Sections 17.3, 17.4 and 17.5 are cumulative and not exclusive except to the extent expressly provided therein, and shall be in addition to any other remedies authorized by law.

State law reference – Va. Code § 15.2-2204, 15.2-2286(A)(4), 15.2-2311.

17.3 CIVIL PENALTIES

Any person, whether the owner, lessee, principal, agent, employee, or otherwise, who violates any provision of the Zoning Ordinance as provided in Section 17.1: Violations, or permits either by granting permission to another to engage in the violating act or by failing to prohibit the violating act after being informed by the Zoning Administrator that the act violates the Zoning Ordinance as provided in Section 17.2: Enforcement, is subject to the following:

1. Warrant in Debt. The Town may file a Warrant in Debt, or similar Summons, with the Loudoun County General District Court, asking the Court to summon the persons charged and to impose upon them a monetary fine (“Civil Penalty”) for violation of the Zoning Ordinance. A Warrant in Debt shall contain, at a minimum, the following information: (i) the name and address of the persons charged; (ii) the nature of the violation and the section of the Zoning

Ordinance allegedly violated; (iii) the location and date that the violation occurred or was observed; (iv) the amount of the Civil Penalty being imposed for the violation; (v) the manner, location and time in which the Civil Penalty may be paid to the Town; (vi) the right of the recipient of the Warrant in Debt to elect to stand trial; (vii) that a signature to an admission of liability will have the same force and effect as a judgment of a court; and (viii) either the date scheduled for trial, or the date on which such trial will be scheduled by the court.

2. Each Day is a Separate Offense; One Charge Every 10 days. Each day that a zoning violation is found to exist as a result of certain operative facts shall constitute a separate offense, and each separate offense shall be subject to a separate Civil Penalty. However, a zoning violation arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period.

3. Amount of Civil Penalty; Maximum Aggregate Civil Penalty. For the first offense arising from the same operative facts, the Civil Penalty shall be \$200. For each subsequent offense arising from the same operative facts, the Civil Penalty shall be \$500 until a cumulative total of \$5,000 in Civil Penalties is reached. The total Civil Penalties from a series of violations arising from the same set of operative facts shall not exceed \$5,000.00. Once a zoning violation has accumulated civil penalties of \$5,000 or more, the Town may, in addition to pursuing the Civil Penalties, prosecute the violation as a criminal misdemeanor under Section 17.4: Criminal Penalties.

4. Option to pre-pay civil penalty and waive trial. Any person receiving a Warrant in Debt for a violation of the Zoning Ordinance may elect to pay the Civil Penalty by making an appearance in person (or in writing, by mail) to the Department of Finance prior to the date fixed for trial in court. A person so appearing may enter a waiver of trial, admit liability, and pay the Civil Penalty established for the offense charged. A signature to an admission of liability shall have the same force and effect as a judgment of court. However, an admission shall not be deemed a criminal conviction for any purpose. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the General District Court of Loudoun County in the same manner and with the same right of appeal as provided by law. A finding of liability shall not be deemed a criminal conviction for any purpose.

5. Civil penalties are in lieu of criminal penalties. A violation enforced by Civil Penalty shall not be enforced by criminal prosecution, except as provided in Section 17.4: Criminal Penalties.

6. Violations excluded. This section shall not be construed to allow the imposition of civil penalties: (i) for activities related to land development where, for the purposes of this section, the term "land development" includes a human-made change to, or construction on, the land

surface including, but not limited to, the construction of buildings, structures or improvements under an approved site plan or subdivision plat, but does not include the land development project's compliance with the Zoning Ordinance; or (ii) for the violation of any provision of the Zoning Ordinance relating to the posting of signs on public property or public rights-of-way.

7. Assessment of civil penalties during appeal period. No civil penalties shall be assessed by a court during the pendency of the 30-day appeal period provided under Article 9: Board of Zoning Appeals.

State law reference – Va. Code § 15.2-2209.

17.4 CRIMINAL PENALTIES

Any person, whether the owner, lessee, principal, agent, employee, or otherwise, whose violation of the Zoning Ordinance results in:

- (i) injury to any person, or
- (ii) the \$5,000.00 maximum aggregate civil penalty provided in Section 17.3: Civil Penalties and who continues to either:
 - a) violate any provision of the Zoning Ordinance as provided in Section 17.1: Violations, or
 - b) permit, either by granting permission to another to engage in the violating act or by failing to prohibit the violating act after being informed by the Zoning Administrator that the act continues to violate the Zoning Ordinance as provided in Section 17.2: Enforcement,

shall be subject to the following:

- 1.** The person shall have committed a misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00.
- 2.** If the violation is uncorrected at the time of conviction, the court shall order the person convicted to abate or remedy the violation in compliance with the Zoning Ordinance, within a time period established by the court. Failure to remove or abate such violation within the time period established by the court shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00, and failure to remove or abate a violation during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period, punishable by a fine of not less than \$100.00 nor more than \$1,500.00.
- 3.** Notwithstanding the other provisions of this section, any conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwelling

units shall be punishable by a fine of up to \$2,000.00. Failure to abate the violation within the specified time period shall be punishable by a fine of up to \$5,000.00, and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of up to \$7,500.00. However, no fine shall accrue against an owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of the dwelling unit against a tenant to eliminate an overcrowding condition in accordance with Chapters 13 or 13.2 of Title 55 of the Code of Virginia, as applicable. A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwelling units shall not be punishable by a jail term.

State law reference – Va. Code § 15.2-2286(A)(5).

17.5 INJUNCTIVE RELIEF AND OTHER REMEDIES

Any violation of the Zoning Ordinance may be restrained, corrected, or abated as the case may be in an action by the Town seeking injunctive or other appropriate relief.

State law reference – Va. Code § 15.2-2208.

Mayor

Kwasi A. Fraser

Council

Chris Bledsoe

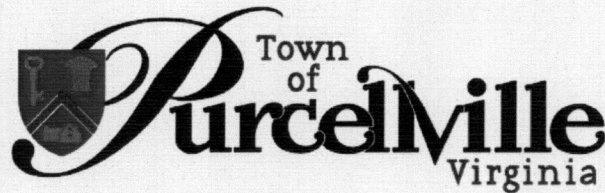
Ryan J. Cool

Kelli Grim

Karen Jimmerson

Douglass J. McCollum

Nedim Ogelman



Town Manager

Robert W. Lohr, Jr.

Assistant Town Manager

Daniel C. Davis

221 S. Nursery Avenue

Purcellville, VA 20132

(540) 338-7421

Fax: (540) 338-6205

www.purcellvilleva.gov

**TOWN OF PURCELLVILLE
IN
LOUDOUN COUNTY, VIRGINIA**

RESOLUTION NO. 16-10-02

PRESENTED:

October 11, 2016

ADOPTED:

October 11, 2016

A RESOLUTION: INITIATING AMENDMENTS TO ARTICLE 7 (LANDSCAPING, BUFFERING, AND OPEN SPACE REGULATIONS), ARTICLE 14 (STREAM AND CREEK BUFFER), ARTICLE 4 SECTION 9.8 (C-4 CENTRAL COMMERCIAL DISTRICT, HEIGHT STANDARDS), AND ARTICLE 11, SECTION 17 (VIOLATION AND PENALTIES) OF THE ZONING ORDINANCE

WHEREAS, the Town Council desires to amend the Zoning Ordinance to lower the maximum heights allowed in the C-4 Zoning District under various conditions; and

WHEREAS, the Town Council desires to amend the Zoning Ordinance to add tree preservation requirements, to increase the quantity and quality of required tree and vegetative plantings within the Town's Stream and Creek Buffer, and to increase the required quantity and quality of tree and vegetative plantings on non-residential properties; and

WHEREAS, in addition to increasing the quantity and quality of required tree and vegetative plantings as stated above, the Town Council desires to wholly review and amend Articles 7 and 14 of the Zoning Ordinance, which govern Landscaping, Buffering, Open Space, and Stream and Creek Buffers, in order to remove ambiguities, reflect state code requirements, and clarify existing language; and

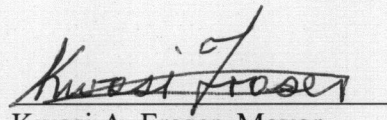
WHEREAS, under authority granted by Va. Code 15.2-2209, the Town Council desires to adopt a schedule of civil financial penalties that will be imposed for violations of the Zoning Ordinance.

A RESOLUTION: INITIATING AMENDMENTS TO ARTICLE 7 (LANDSCAPING, BUFFERING, AND OPEN SPACE REGULATIONS), ARTICLE 14 (STREAM AND CREEK BUFFER), ARTICLE 4 SECTION 9.8 (C-4 CENTRAL COMMERCIAL DISTRICT, HEIGHT STANDARDS), AND ARTICLE 11, SECTION 17 (VIOLATION AND PENALTIES) OF THE ZONING ORDINANCE

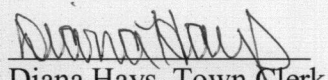
NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Purcellville that:

1. The public necessity, convenience, general welfare, and good zoning practice require consideration of these proposed amendments to the Zoning Ordinance, which are hereby initiated and referred to the Planning Commission, to be considered and acted upon in the following order:
 - a. Tree Planting, Tree Preservation, Landscape, and Stream & Creek Buffer Amendments to Article 7 and Article 14
 - b. C-4 District Height Standard Amendments to Article 4, Section 9.8
 - c. Civil Financial Penalties Amendments to Article 11, Section 17
2. As to each amendment, the Planning Commission shall present to the Town Council its recommendations prior to holding a public hearing, and will take into consideration any comments from Town Council. Thereafter, the Planning Commission shall hold a public hearing and may make appropriate changes to the proposed ordinance or amendment as a result of the hearing. Finally, the Planning Commission will present the proposed amendment to the Town Council together with its recommendations and explanatory materials.
3. The Town Council authorizes the Planning Commission to present the proposed amendments to Town Council more than 100 days after this resolution is adopted.

PASSED THIS 11th DAY OF OCTOBER, 2016.


Kwasi A. Fraser, Mayor
Town of Purcellville

ATTEST:


Diana Hays, Town Clerk



STAFF REPORT **INFORMATION ITEM**

Item # 9a

SUBJECT: Status of Priority Work Items

DATE OF MEETING: June 1, 2017

STAFF CONTACT: Daniel Galindo, AICP – Senior Planner

This report briefly summarizes any recent updates on the status of the Planning Commission's priority work items.

1. Comprehensive Plan Update – Staff is continuing to work on the plan as time allows but has had to divert significant time over the past few weeks to other important issues related to the new transition in Town administration, the department's ongoing need for additional help, previously submitted external legislative applications (see #9 below), and pre-submission meetings for proposed external legislative applications. On May 17th, Staff spoke with Julie Herlands at TischlerBise about the Town's options for a fiscal element of the comprehensive plan or fiscal impact tool, as was previously discussed with the Planning Commission at the May 4th meeting. On May 19th, Staff completed a critical path timeline for adoption of the comprehensive plan and distributed it to the Planning Commission. On May 23rd, Staff presented the options for creating a fiscal impact tool or fiscal element of the comprehensive plan to the Town Council for discussion, and Town Council requested more information be brought back to their June 13th meeting for further discussion and (hopefully) a decision. On May 26th, Staff worked with our new intern, Emily Baer, to develop appropriate tasks that she will complete to aid in the completion of the initial comprehensive plan draft. As of May 30th, Staff has completed all known time-sensitive tasks related to external legislative applications, so the next two weeks should be almost entirely available for Staff and the consultants to complete the initial draft of the comprehensive plan.
2. OA16-04 Tree Preservation Regulations Zoning Ordinance Text Amendment – No change.
3. OA16-01 Stream and Creek Buffer Zoning Ordinance Text Amendment – No change.

4. OA16-05 Reduce Maximum Building Heights in the C-4 District Zoning Ordinance Text Amendment – At the Planning Commission’s May 4th meeting, the Commission approved a motion recommending Town Council approval with suggested changes. This item is on hold until the initial draft of the new comprehensive plan is completed.
5. OA16-06 Civil Penalties Zoning Ordinance Text Amendment – The Town Attorney has completed her review of the consolidated document previously prepared by Staff containing proposed modifications to, as well as comments and questions on, the draft regulations originally prepared by the Director of Community Development. This item is scheduled for action at the June 1st meeting.
6. OA17-01 Definition of Duplex Dwelling Zoning Ordinance Text Amendment – No change.
7. Sign Regulations – No change.
8. Accessory Dwelling Standards – No change.
9. Legislative Applications
 - a. *CPA15-01 O’Toole Property (Designate as Mixed Use Commercial)* – On May 27th, all review comments for the project’s third submission were distributed to the applicant. All review comments have been uploaded to the Town’s website.
 - b. *RZ15-02 O’Toole Property (X to MC)* – On May 25th, Staff met with the applicant team to discuss the formula by which the applicant could calculate and pay a “fair share contribution” toward the upgrading of infrastructure that would be needed to serve the potential development. On May 27th, all review comments for the project’s third submission were distributed to the applicant. All review comments have been uploaded to the Town’s website.
 - c. *SUP16-01 7-Eleven Fueling Station Expansion* – On May 15th, the second submission for this application was received. On May 30th, the second submission was distributed to the Town’s referral partners for review. All materials associated with the application have been uploaded to the Town’s website.
 - d. *CPA16-01 Village Case (Neighborhood Commercial & Institutional/Government to Residential)* – On May 2nd, Staff met with the applicant to discuss technical questions regarding the previously distributed review comments on the project’s second submission. On May 23rd, Staff provided additional review

comments to the applicant in response to the issues discussed at the meeting. This document has been uploaded to the Town's website.

- e. *PCA16-01 Village Case (Commercial & Church to Single-family Detached Residential)* – On May 2nd, Staff met with the applicant to discuss technical questions regarding the previously distributed review comments on the project's second submission. On May 23rd, Staff provided additional review comments to the applicant in response to the issues discussed at the meeting. This document has been uploaded to the Town's website.
- f. *SUP16-02 Virginia Regional Transit Commuter Parking Lot* – On May 12th, the applicant submitted a revised concept plan now showing a new location for passenger pick up and drop off within the parking lot as well as the commuter buses exiting on to Bailey Lane. On May 23rd, Staff provided review comments to the applicant noting that the revisions will require new public hearings to be conducted. These documents have been uploaded to the Town's website.
- g. *SUP17-01 O'Toole Property Assisted Living Facility* – On May 27th, all review comments for the project's first submission were distributed to the applicant. All review comments have been uploaded to the Town's website.
- h. *SUP17-02 Blue Ridge Veterinary Associates Kennel* – On May 26th, all review comments for the project's first submission were distributed to the applicant (except for VDOT's which have yet to be received). All review comments that have been received have been uploaded to the Town's website.

THIS PAGE INTENTIONALLY LEFT BLANK



STAFF REPORT
INFORMATION ITEM

Item # 9b

SUBJECT: Comprehensive Plan Update Status

DATE OF MEETING: June 1, 2017

STAFF CONTACT: Daniel Galindo, AICP – Senior Planner

SUMMARY:

Staff will provide a verbal report on the status of the Comprehensive Plan Update at the meeting. (See also the Status of Priority Work Items staff report.)

THIS PAGE INTENTIONALLY LEFT BLANK

**MINUTES
PLANNING COMMISSION REGULAR MEETING
APRIL 20, 2017, 7:00 PM
TOWN HALL COUNCIL CHAMBERS**

PRESENT: Theresa Stein, Chairman
Tip Stinnette, Planning Commissioner
EJ Van Istendal, Planning Commissioner
David Estey, Planning Commissioner
Kelli Grim, Planning Commission/Council Liaison

ABSENT: Chip Paciulli, Vice Chairman/Planning Commissioner
Britt Adkins, Planning Commissioner

STAFF: Daniel Galindo, AICP, Senior Planner
Sally Hankins, Town Attorney
Michele Snyder, Planning and Zoning Assistant

CALL TO ORDER OF REGULAR MEETING:

Chairman Stein called the Planning Commission Regular Meeting to order at 7:02 PM. The Pledge of Allegiance followed.

AGENDA AMENDMENTS:

Daniel Galindo noted that materials for both items were placed at the dais for the Commissioners.

COMMISSIONER DISCLOSURES:

None

PUBLIC HEARINGS:

- a. **OA16-05 – Zoning Ordinance Text Amendment to Reduce Maximum Building Heights in the C-4 District**

Chairman Stein opened the public hearing at 7:04 PM and stated the purpose of the hearing. Daniel Galindo gave the staff presentation, reviewed the seven proposed amendments and the potential effects of the amendments as noted in the staff report, and provided potential solutions to the noted effects.

Michele Snyder noted that emails from Mary Frances Bennett and Lydia Clark had been received and are on file in the Clerk's office.

Chairman Stein granted speakers three minutes.

Bill Murphy, owner of Valley Energy, 115 E. Main Street, came forward and provided the history of his building, known as the “Old Bank Building.” Mr. Murphy stated that when it was built in 1915 it was a one level dwelling and that a second floor was added in 1960. Mr. Murphy added that the building is currently built next to a residential house and they bought a house with a driveway in between. Mr. Murphy added that back in 1915 the building was likely 10-15 feet higher than the buildings next door and feels the building is a historical asset to the Town. Mr. Murphy stated he feels the setbacks are pedestrian friendly and does not see the need for the changes and that they would be made at the expense of the current landowners. Mr. Murphy asked the reason behind this and added that, in looking forward, what impact the Town is proposing to put on current landowners because of a restriction the Planning Commission may want to make to prohibit someone else down the road. Mr. Murphy stated that the Town has plenty of resources to stop these types of things including the Architectural Review Board, the Planning Commission, Board of Zoning Appeals and the Town Council. Mr. Murphy restated that he feels this item is unnecessary and suggested leaving things as status quo.

Mark Nelis, 196 N. 21st Street, came forward and talked about the things that make a difference in the Town including the W&OD Trail, Bush Tabernacle, Fireman’s Field and downtown. Mr. Nelis referenced the downtown buildings and their significance including the two mills, Mr. Murphy’s building, the White Palace and the church at the tear drop. Mr. Nelis encouraged the Planning Commission to be careful as to how they are treating non-conforming users. Mr. Nelis referenced the owner of the red mill and that that building is clearly non-confirming and that a lot of money had been spent recently renovating the building. He stated that he does not understand the consequences of this item. Mr. Nelis stated that there would be at least a dozen buildings that would be effected by this change, and while he is aware of the notice requirements, asked why the Commission would not reach out to these people and explain the consequences of the non-conforming use. Mr. Nelis stated that years ago he measured the Magnolia’s building from the back and got 57 to 59 feet and that he saw some notes from a prior meeting and that those numbers were a great variance from that and encouraged that the buildings be measured.

Susan Athey, 107 W. O Street, came forward and stated she is across from the Train Station and hears a lot of positive comments about 21st Street. Ms. Athey stated she was happy to receive the memo and is hoping if the restriction does go through that it will prevent any large development on 21st Street. Ms. Athey asked if the restrictions could not apply to buildings like the mill building and Magnolia’s that are already constructed. Ms. Athey added she would not like to see 21st Street change and that it sounds fair to keep anything out of control from happening.

Mary Ellen Stover, 120 N. 21st Street, came forward as a business owner and spoke in favor of the ordinance moving forward and that she is aware of the structures lining up with the period of time of the Town and talked about other towns being appealing and inviting. She stated that she does not see anything else being done with Purcellville. Ms. Stover added she feels it is an

important feature of the Town to manage whatever is going to be done with the rest of the area in the C-4 district.

Donna Adelman, 101 N. 28th Street, stated she would like to withhold her comments until the next group but said she objects to the comment that Purcellville is like any other Northern Virginia Town and does not feel it is.

Dale Thompson, 141 E. Main Street and owner of the Purcell Store, stated the Town was named after the store in 1820. Mr. Thompson stated that the Town is no longer Mayberry and they let the growth and change go at the other end and the businesses on this end of Town have been handicapped. Mr. Thompson added that he has been voted into a historic district that he did not want to be in. Mr. Thompson stated he was told he needed to see the Board of Architectural Review and that every time he has tried to do an addition to his building has been met with roadblocks for the last 23 years. Mr. Thompson stated he does not feel this is needed and that the buildings that are memorable in the Town are the larger buildings. Mr. Thompson referenced the stack of certified letters that he has received from the Town, and that he would like to put on an addition and after a BAR review there is always someone does not like it. Mr. Thompson stated he does not want to be at a handicap and would like to grow and improve his business, and that he has given up on trying to expand. Mr. Thompson stated that you have to let people change their buildings and that they do not have to be 75' tall and referenced the Chapman Building being allowed to be built but not his. Mr. Thompson stated he is sad how the Town has turned out and that it is not like every other Town because of the people.

David Eno, 351 E. Main Street, stated he has been here since 1979 and has seen a lot of changes in Town. Mr. Eno stated he commends the Planning Commission's attention back to the last election where they heard loud and clear from the people on the development issue. Mr. Eno stated he feels it is outrageous that someone was proposing a skyscraper on 21st Street with modern architecture which does not fit the neighborhood. Mr. Eno added that everyone in Town was upset and that a panel of distinguished citizens, democratic, republican, independent, and radicals got together and put some fresh faces on the Board who most won by margins over two to one and looks at that as a mandate to leave things alone. Mr. Eno stated he feels the Commission would do well reverting everything to what it was in 2008 before all the changes were put in place and that people do not understand conforming and non-conforming.

With no further comments, Chairman Stein closed the Public Hearing at 7:29 PM.

PRESENTATIONS:

None

DISCUSSION ITEMS:

- a. **OA16-05 – Zoning Ordinance Text Amendment to Reduce Maximum Building Heights in the C-4 District**

Commissioner Stinnette referenced the 200' offset and asked if that is from the 2008 ordinance or if it was a change. Daniel Galindo stated it is what was in effect prior to the 2008 ordinance. Commissioner Stinnette asked if the 30' was compliant in the 2008 ordinance. Daniel Galindo confirmed. Commissioner Stinnette stated that what is being proposed is not different than what was in place prior to 2008. Daniel Galindo confirmed. Commissioner Stinnette asked for an explanation on what happens when there is a nonconforming building. Daniel Galindo stated that when there is a nonconforming building, the building cannot be expanded in any way that would increase the nonconformity. Commissioner Stinnette asked if the building can continue to exist as is but cannot be expanded or changed so that it exceeds the current height. Daniel Galindo confirmed and stated that if you wanted to put an addition onto a building that was taller than the current height and the addition was beneath the current standard, the addition would be allowed. Daniel Galindo added that Valley Energy would not be subject to the 30' foot provision and that it would be in the core area where 45' would be allowed. Commissioner Stinnette referenced the offset and the increase in the number of affected buildings asked how many of those buildings have been put up since 2008. Daniel Galindo stated that within the 200', he does not believe that any have. Mr. Galindo added that since 2008 what may have been nonconforming prior has now been made to conform and the amendment would be putting them back into nonconforming status.

Commissioner Grim asked if a one story building could still add on two additional stories to reach a maximum of three stories and that a two story building could add an additional story to be three stories. Daniel Galindo confirmed. Commissioner Grim asked if this affects any of the setbacks other than the ones discussed. Commissioner Grim asked that if someone was to add a room onto the back of building if that would be permitted. Daniel Galindo stated that it would not affect property setbacks and that the amendment only mentions heights.

Commissioner Van Istendal asked for Mr. Galindo to refer to what Magnolia's was previously measured at and was surprised to hear the measurement of 57'. Commissioner Stinnette stated it was measured at 39.41'. Commissioner Van Istendal asked Mr. Nelis his measurement method for comparison purposes. Mr. Nelis stated that he used a drone with a laser measurement and that he measured many of the buildings. Chairman Stein asked if that building would be subject to a site plan. Mr. Nelis stated that it was, and Chairman Stein noted that the site plan should include the height. Daniel Galindo stated that if a site plan was done in the past 15 years the Town would have it and could check the height. Mr. Nelis stated that his measurement was from the back and that the zoning ordinance provides for an average grade line around the building. Commissioner Stinnette stated he checked the height from the street side using a clinometer and that he also checked the site plan for the red barn mill and feels Magnolia's is not 10-15' higher than the red barn in terms of height from the street. Commissioner Van Istendal thanked Commissioner Stinnette for his facts.

Chairman Stein clarified that currently the proposal is to be 45' and a maximum of three stories and that one could not necessarily get an additional story if it was already at the 45'. Chairman Stein referenced the Adams Mill Building and stated that it was already nonconforming with the pre-2008 ordinance. Daniel Galindo stated they could add on assuming that the addition meets the current standards.

Chairman Stein referenced the buildings that would become nonconforming if the recommended changes were implemented.

Commissioner Grim disclosed that she has encouraged the phone callers that she spoken with to state their support of this as it was written.

Chairman Stein stated she agrees with staff recommendation to eliminate the stories because, as a professional planner, she has not liked when there is a height and a story limitation and does not feel the Planning Commission should be dictating the architecture of a building. Chairman Stein added that she feels going from 200' to the 50' would require those buildings to be less than the adjacent residential which does not seem fitting.

Commissioner Stinnette asked if the story limitation was in effect pre-2008. Daniel Galindo confirmed that it was.

Daniel Galindo clarified that by closing discussion without a motion the item would be brought back for action at the next meeting. Chairman Stein confirmed.

Chairman Stein made a motion to recess the regular meeting and convene a closed meeting, and that authorized under Section 2.2-3711(A)(7) of the Code of Virginia, I move that the Purcellville Planning Commission convene in a closed meeting to consult with legal counsel employed or retained by the public body concerning the following specific legal matter that requires legal advice:

- 1) The laws pertaining to setbacks and buffers from streams and other water bodies.

The presence of the following individuals are requested in the closed meeting:

- 1) All Planning Commissioners
- 2) Sally Hankins, Town Attorney
- 3) Daniel Galindo, Senior Planner

The motion was seconded by Commissioner Van Istendal.

Motion:	Chairman Stein
Second:	Commissioner Van Istendal
Carried:	4-1-2 Absent

Istendal:	Aye
Estey:	Aye
Grim:	Aye
Stein:	Aye
Stinnette:	Nay
Adkins:	Absent

Paciulli: Absent

Chairman Stein made motion that the Purcellville Planning Commission reconvene in an open meeting and that the minutes reflect no formal action was taken in the closed meeting. The motion was seconded by Commissioner Van Istendal.

Motion: Chairman Stein
Second: Commissioner Van Istendal
Carried: 5-0-2 Absent

Istendal: Aye
Estey: Aye
Grim: Aye
Stein: Aye
Stinnette: Aye
Adkins: Absent
Paciulli: Absent

Chairman Stein made a motion that the Purcellville Planning Commission adopt Resolution 17-04-05 certifying the closed meeting of April 20, 2017. The motion was seconded by Commissioner Stinnette.

Motion: Chairman Stein
Second: Commissioner Stinnette
Carried: 5-0-2 Absent

Istendal: Aye
Estey: Aye
Grim: Aye
Stein: Aye
Stinnette: Aye
Adkins: Absent
Paciulli: Absent

b. OA16-01 – Zoning Ordinance Text Amendment to Repeal and Replace the Stream and Creek Buffer

Daniel Galindo stated he spoke with Dale Lehnig, Capital Projects and Engineering Manager, to review this item. Mr. Galindo added that Ms. Lehnig stated she did not see anything in the ordinance that allows stormwater conveyance or management within the stream buffer. Mr. Galindo added that stormwater management, specifically ponds, are generally not allowed within the 100 year floodplain but conveyance may be if detention is not required and feels that this should be included. Daniel Galindo referenced the draft ordinance and that item five reads “minor public utilities as defined in the zoning ordinance” and that when the zoning uses were updated, a lot of the minor utilities were defined. Mr. Galindo added that Ms. Lehnig asked about

the uses that might be allowed within the agricultural conservancy zoning, the Brown property, and if this would restrict their ability to plant orchard trees. Daniel Galindo noted that there is nothing that makes that clear. Mr. Galindo added that the Ms. Lehnig's interpretation of the old ordinance is that the stream buffer restrictions are only where the floodplain is identified and not along the streams themselves as shown on the old map. Mr. Galindo stated that the current ordinance mentions three creeks by name and says "as shown" on the 2008 map and that it also says that the buffers correspond to creeks that have major and minor floodplain listed. He added that it is not clear, the way it is worded, whether it is just within the floodplain or any stream associated with a floodplain; however, he feels it would include anything. Daniel Galindo stated that if the Commission feels a 200' swath along the streams may not be the best policy, it could be an alternative to where the scale is limited back and defined based on those floodplain areas. Daniel Galindo noted that at the current scale it can be hard to see where some of the buildings are located within the buffer, but especially along the creek running almost directly south through Locust Grove, Hirst Farm, and the Town's Maintenance and Wastewater property, there are some back yards contained within the buffer as currently shown as well as a couple of houses. Mr. Galindo talked about adding something to the minor public utilities definition about sewer facilities or both of the major public utilities and minor public utilities definitions.

Commisisoner Stinnette asked if staff has spoken with the County on how they handle stream and creek buffers. Sally Hankins clarified the questions that if the Town has talked with the County on how they handle the setbacks from their streams that continue into the Town's jurisdiction and stated they have not looked into this.

Chairman Stein stated she feels the Planning Commission may need to look into this further and possibly speak with the County and talked about how to handle utilities and about not restricting some of the residential properties from having accessory structures. Chairman Stein proposed that Sally Hankins conduct research and report back to the Planning Commission and requested that Commssioner Grim update Town Council on the progress. Chairman Stein asked Daniel Galindo if he could look into the utility issues and then bring that back and have further discussion.

ACTION ITEMS:

None

INFORMATION ITEMS:

a. Status of Priority Work Items

Chairman Stein referenced the updated attachment to show recent changes. Daniel Galindo had no further changes.

Commissioner Grim referenced the Comprehensive Plan Update and asked Daniel Galindo if there are draft documents that the consultant has provided that staff is editing but that the Commissioners can begin to review. Daniel Galindo noted that there are preliminary drafts that

the consultant has provided that he has been trying to make notes on; however, with the level of work that had to go into items on the current agenda tonight, he has not had time to work on it. Mr. Galindo added that he hopes to have something cohesive available soon. Commissioner Grim stated she is not looking for cohesive and as a Planning Commisisoner feels disconnected from the process for reviewing what the consultant has brought together and provided.

Daniel Galindo noted that it would be his preference for the Commission to grant the time to put something together that is not a final draft but something cohesive to ensure the different parts work together. Mr. Galindo added that the Planning Commission has many priorities, and he wants to feel comfortable presenting this to the Planning Commission.

Commissioner Stinnette talked about creating a critical path and milestones.

CITIZEN COMMENTS:

None

COUNCIL REPRESENTATIVE'S REPORT:

Commissioner Grim stated that at the last Council meeting, Chuck Izzo and Daniel Abramson were recognized for their terms on EDAC. Commissioner Grim stated that timber sales on the Town property will net approximately \$220,000 to the Town. Commissioner Grim added there is a new subcommittee being formed to discuss the policy of recreational access to the reservoir property that has been drafted by the Mayor. Commissioner Grim noted that the subject of the outside storage and required screening has been deferred to the next meeting as there were issues to be answered before it came before Council. Commissioner Grim stated that Council has set May 1st as a meeting and probable deadline for finalizing this year's budget, and is looking to hear from residents, Commissioners and committee members on any concerns.

CHAIRMAN'S COMMENTS:

None

PLANNING COMMISSIONERS' COMMENTS:

Commissioner Stinnette asked where they stand with OA16-05. Chaiman Stein stated that it will be up for action at the next meeting. Commisisoner Stinnette asked if there is any notice that goes out to the Town with respect to the item. Daniel Galindo stated that, for text amendmdents, the required notice is what goes in the newspaper; however, since it affects buildings in C-4, a notice was mailed to all of the individual property owners. Commissioner Stinnette asked if it would be reasonable to send out notices to those properties that would be specifically impacted. Daniel Galindo stated he could send something out and that, of the three properties noted, the status of two of the properties hinges on the story requirement and that the ordinance defines a half story which cannot be determined without going into the building. Daniel Galindo asked

Sally Hankins if there would be a consequence if he missed a location. Sally Hankins stated as long as the minimum legal notice requirement is met, there would be no risk.

Commissioner Grim asked if the red mill/building was nonconforming in 2008. Daniel Galindo confirmed. Commissioner Grim stated that nothing would actually be changing in going back to the original. Chairman Stein stated that the 2008 changes made it conforming and now it would be made nonconforming again.

Commissioner Stinnette recommended sending notification to those properties that will be nonconforming.

Commissioner Grim asked how the ordinance would be passed and where would it make the difference in talking about the original wording which was 200' and the recommendation was down to 50'. Daniel Galindo stated he would send a letter based on what has been presented this evening. Since the Commission did not give any direction to adopt or not adopt his recommendations, the letter would focus on the buildings that have been identified as it is. Chairman Stein requested that Mr. Galindo send out the notices. Commissioner Grim requested that the Planning Commissioners receive a copy of the notices.

Commissioner Stinnette asked if there is any notice to the public that the Commission will be taking action on this item at the next meeting. Daniel Galindo stated that the public notices that were sent out were for the public hearings and that it would be included on the meeting agenda.

APPROVAL OF MINUTES:

a. April 6, 2017 Regular Meeting

Commissioner Stinnette made a motion to approve the minutes of the April 6, 2017 Regular Meeting and waive reading. The motion was seconded by Chairman Stein and carried with two absent.

ADJOURNMENT:

With no further business, Commissioner Van Istendal a motion to adjourn the meeting at 8:36 PM. The motion was seconded by Commissioner Stinnette and carried with two absent.

Theresa Stein, Chairman

Diana Hays, Town Clerk

THIS PAGE INTENTIONALLY LEFT BLANK

**MINUTES
PLANNING COMMISSION REGULAR MEETING
MAY 4, 2017, 7:00 PM
TOWN HALL COUNCIL CHAMBERS**

PRESENT: Theresa Stein, Chairman
Chip Paciulli, Vice Chairman/Planning Commissioner
Tip Stinnette, Planning Commissioner
EJ Van Istendal, Planning Commissioner
David Estey, Planning Commissioner
Kelli Grim, Planning Commission/Council Liaison

ABSENT: Britt Adkins, Planning Commissioner

STAFF: Daniel Galindo, AICP, Senior Planner
Tucker Keller, Planning and Zoning Technician

CALL TO ORDER OF REGULAR MEETING:

Chairman Stein called the Planning Commission Regular Meeting to order at 7:01 PM. The Pledge of Allegiance followed.

AGENDA AMENDMENTS:

Daniel Galindo stated that he had no amendments, but he had an addendum to the Comprehensive Plan Prioritization Staff Report.

COMMISSIONER DISCLOSURES:

None

PUBLIC HEARINGS:

None

PRESENTATIONS:

None

DISCUSSION ITEMS:

a. Comprehensive Plan Update Status & Prioritization of Work

Daniel Galindo referenced the supplemental information and discussed reasons for the delay in the Comprehensive Plan as well as two proposals on how to improve the process going forward. Mr. Galindo stated that, in the short term, he would recommend stopping work on all other priorities for about one month and feels a draft could be ready in early June. Mr. Galindo stated that, in the long-term, he does not feel that the Planning Commission prioritizing the items is having the effect that was intended and that it would be appropriate for Council to prioritize the items.

Commissioner Paciulli stated he is in support of the suggestions but would like to move the Building Heights item forward as well as Stream and Creek Buffer item.

Commissioner Grim referenced item 7a and asked for an explanation of the statement that references that funds were originally allocated for an overall fiscal impact analysis of the Comprehensive Plan but that an alternative is proposed because looking outside the corporate limits is being eliminated. Commissioner Grim stated that she feels that from previous conversations that the fiscal impact analysis is an internal issue in looking at buildout and other items. Daniel Galindo stated that what was initially anticipated was to do a traditional land use map for the overall plan, including areas outside of Town, but now the plan was focused on redevelopment areas. Daniel Galindo talked about Planning Commissioners and some Council members being interested in moving towards a tool that can be used for rezoning applications and SUP's, which is what option one provides although it would involve more funding. Mr. Galindo added that the second option provides the information for review for guidance moving towards such a tool in the future.

Chairman Stein referenced option 1 and the additional funding of \$12,000 going through Council. Daniel Galindo stated that Council is currently going through the budget process and referenced the Long-Range Planning line item. Daniel Galindo proposed the idea of asking Council to move forward with this tool and either add money back in or to move the new design guidelines across the fiscal year as initially discussed and use some of the money for this item.

Commissioner Grim added that Council is looking at the prospect of a high-performing retired or part-time Planner that could be a part of the Comprehensive Plan and assisting with the other items as needed.

Commissioner Stinnette recommended that all activities be stopped to allow the Planning Staff to be able to focus on the Comprehensive Plan which is a priority to the Town. Commissioner Stinnette referenced pages 13 and 14, the steps to complete the Comprehensive Plan and stated the timeline associated with each step is missing and feels this would be useful for the Commissioners and the Council. Commissioner Stinnette stated he sees about twelve thousand dollars' worth of work that will not need executed. Daniel Galindo stated that if the Commissioners determine that the implementation tool is more useful, then the money would be

freed up. Commissioner Stinnette suggested before dividing into sub-teams to assist staff that it would be helpful to know what outputs are expected from a project team and what they look like. Chairman Stein asked the Commissioners if they wanted to entertain the team approach or if they want to give the Senior Planner the month to work on the Comprehensive Plan. Chairman Stein recommended giving the time to Daniel Galindo to accomplish this.

Commissioner Grim clarified that the building heights issue was a very important issue that Council saw with the Comprehensive Plan coming together which had not been updated since 2008. Commissioner Grim added that since February, all of the projects have had to continue moving forward and does not feel that she has had anything to do with review or input of the Comprehensive Plan and feels the Commissioners should be able to read through the drafts to stay involved in the process. Commissioner Grim added that it is not her intent to have Commissioners slow down the process.

Daniel Galindo added he felt a draft could be ready for the Planning Commissioner's review by around June 9th. Commissioner Stinnette confirmed that the Planning Commission would not ask for assistance from Daniel Galindo as he works on the Comprehensive Plan and requested a timeline against the tasks. Chairman Stein added that it is important that Council agree. Commissioner Stinnette recommended delaying the public hearing on the building heights to the Council until June. Chairman Stein noted that if all of the Planning Commissioners are in agreement that they could direct Daniel Galindo to create the schedule and take it to Council for approval. All of the Planning Commissioners were in support of this, and Chairman Stein requested that Daniel Galindo receive approval from Council. Commissioner Stinnette offered to draft a separate document for the Commission's review that shows the recommendation to the Council that the Planning Commission agreed to and request Council's support.

Commissioner Grim talked about the other items and that the Commissioner's stay involved outside of meetings.

Commissioner Stinnette asked about the Planning Commissioner's receiving emails to and from the consultant so that they stay involved in the process. Daniel Galindo stated that this would be possible and added that he feels he has always tried to put all of the information out for the Planning Commission as well as the public.

Commissioner Van Istendal stated that he understands the need for transparency and agrees with it and that Mr. Galindo should be granted the one month to work on the plan and recommended that a weekly summary be provided rather than be copied on all emails. Commissioner Paciulli stated he feels it would be inappropriate for the Planning Commissioners to chime in at any point. Chairman Stein requested that documents be shared with the Commissioners so they stay aware and feels this would be sufficient. Commissioner Stinnette requested that the new timeline be shared as well.

Commissioner Grim stated that she has no distrust and is trying to stay informed which may be different than other Planning Commissioners, and that Commissioners may opt of getting the

emails if they choose. Commissioner Grim thanked Mr. Galindo for facilitating and sharing the information over the past three months and finds it helpful.

Chairman Stein summarized that Commissioner Stinnette would create a draft to share with the Commissioners before forwarding to Council which would include the timeline. Chairman Stein asked if they should plan to meet the second meeting May or cancel. Commissioner Grim added that the public hearing and the VRT information has been sent back to the Planning Commission, and VRT would forward a new drawing that shows the issues that were addressed. Chairman Stein stated that this is if a resubmission is received from VRT and otherwise there would not be anything on the agenda. Chairman Stein suggested that if nothing is received from VRT then the meeting be canceled. Mr. Galindo added that depending on the changes that another public hearing process may need to be held. Commissioner Grim stated that VRT's plan is that the buses conduct activity inside the parking lot. Chairman Stein stated she feels this would be substantial enough for a new public hearing and would need preparation time and that June 1st would be better. Daniel Galindo agreed and stated that June 1st would be the earliest it could come back for a public hearing due to advertising requirements.

Commissioner Paciulli asked Commissioner Grim the logic behind sending it back to the Planning Commission. Commissioner Grim stated the Council felt that pictures, reports and information were not presented to the Planning Commission at the time. Daniel Galindo stated that June 1st or 15th could work depending on the change. Chairman Stein recommended canceling the May 18th meeting and to let Mr. Galindo state when he is ready.

Commissioner Grim asked if the Fire Dept. submitted comments on the original as she had not seen them. Mr. Galindo stated he would look; however, he noted that it may have been Loudoun County Fire and Rescue and not the Fire Dept.

Daniel Galindo asked if the Planning Commissioners agree to having the Town Council prioritize their work items, where would the Outdoor Storage item be prioritized and if there is a preference on the two options of the fiscal element.

Chairman Stein stated in regards to the Outdoor Storage item that she cannot believe that the Zoning Administrator cannot make a determination of what is or isn't outdoor storage and that he feels the zoning ordinance does not give enough information to be able to solve the problem without a text amendment. Chairman Stein added that with some of the other items she does not see this as taking precedence. Chairman Stein stated that she hopes to be able to move the heights forward today and that Civil Penalties needs additional work.

Daniel Galindo added that the Floodplain Regulations have been adopted and since then the Duplex Dwelling item has been added and Council had asked recently about Outdoor Storage.

The Planning Commissioners discussed the priorities of the work items. Chairman Stein stated she believes Outdoor Storage would go to the bottom of the list. Daniel Galindo asked about preferences on the fiscal elements, and added that option one is his preferred option if Council approves it. Commissioner Van Istendal talked about being fiscally responsible and does not feel

\$24,000 should be invested for a better product and was not against a smaller investment. Commissioner Grim added that she feels Council would need to be presented with the product to see it applied to a particular project. Mr. Galindo stated that \$11,800 is what is in the current Comprehensive Plan budget for a fiscal product and that would be reallocated towards implementing a tool that help pursue the goals of the plan once it is approved. Mr. Galindo added that the \$12,000 would be additional. Commissioner Stinnette stated he does not feel it is within the scope or authority of the Planning Commission to say the money should be reallocated, and feels the value of the Comprehensive Plan, once finished, is not going to be influenced by this tool but that the tool would influence the implementation of the Plan. Commission Paciulli clarified that they do not want to spend the \$11,800 in the Plan for the fiscal portion. Chairman Stein suggested speaking to Council without a recommendation from the Planning Commission.

Discussion took place about the work associated with the standard staff reports. Daniel Galindo stated that once draft text is prepared that Commissioner Grim can take it to Council as part of the update.

Commissioner Stinnette talked about project teams and if there is a desire for them that the Planning Commission talk about how to characterize the teams. Chairmain Stein stated that if there is a project team that they could go to the Planning Commission with their decision on what they would work on and the Commission would help with the scope.

ACTION ITEMS:

a. OA16-05 – Zoning Ordinance Text Amendment to Reduce Maximum Building Heights in the C-4 District

Chairman Stein stated the public hearing was held at the April 20th Planning Commission Meeting. Daniel Galindo stated that he added some information to the second point of his analysis and that the provision references business buildings being limited by the lower heights. Mr. Galindo noted that something that is a business building now may not be in the future and vice versa if it is a permitted use, and he does not feel that a 35 foot maximum height is significantly different than a 30 foot height. Further discussion took place about setting the height in the various districts.

Commissioner Grim agreed with Commissioner Stinnette that the non-conformities would not effect a lot of buildings and only if a building is going to be rebuilt. Chairman Stein talked about the overall height and the number of stories not being with the “and” requirement.

Daniel Galindo confirmed with the Commissioners that no one is in favor of the 65 or 75 feet current height and that the issue is the maximum height.

Commissioner Van Istendal stated he feels that based on the findings and previous discussions that it should be 35 feet. Daniel Galindo added that, based on the definition, since it is 45 feet and three stories, if it is three stories at the front finished grade that it could still be four stories in the back. Mr. Galindo added that if the front is higher, then the measurement would be taken

from the front and if not then the measurement is taken all the way around to get an average. Daniel Galindo stated that the language that Commissioner Paciulli initially brought was from 1991, and when he reviewed what was actually in the ordinance in 2008, the maximum was 32 feet instead of 30 feet.

Chairman Stein stated she feels it would be penalizing a business by making it lower than what the adjacent residential could be which does not seem like a good land use decision.

Commissioner Van Istendal offered to make a motion based on the fact that citizens and businesses did provide input and feels that the majority would benefit.

Commissioner Van Istendal made a motion that for the reasons stated in the staff report dated May 4, 2017, that the Purcellville Planning Commission forward to Town Council with a recommendation to approve OA16-05 Reducing the Maximum Building Heights in the C-4 Zoning District with the following changes:

1. Maintain the portion of the current regulations which require buildings within 50 feet of a residential district to be limited to a maximum height of 35 feet instead of the proposed maximum height of 30 feet and 2 stories for buildings within 200 feet of a residential district; and
2. Do not add the additional three story limitation to the existing standard which limits the general maximum height to 45 feet.

The motion was seconded by Commissioner Paciulli.

Commissioner Estey asked if this is reducing the maximum building height. Daniel Galindo stated that the overall number in the district is 45 feet with some exceptions and this would be changing some of the exceptions and moving them back towards what they were previously.

The motion carried 4-2-1 with Commissioners Grim and Stinnette opposed and Commissioner Adkins being absent.

INFORMATION ITEMS:

a. Status of Priority Work Items

This item was discussed previously.

CITIZEN COMMENTS:

None

COUNCIL REPRESENTATIVE'S REPORT:

Commissioner Grim stated that VRT has been sent back to the Planning Commission.

Commissioner Grim stated that a new question has been issued through Polco about the Town and the County consolidating the tax payments which could have ramifications to the residents with all taxes being handled by the County and online and available within the Munis program. Commissioner Grim added that this would have some cost savings to the Town and added that other Towns are also looking into this.

Commissioner Grim stated that there has been a new parking proposal for 21st Street which limits two hour parking on the signs that say “customer parking” which will help resolve the issue of employees taking up spaces.

Commissioner Grim stated that Council is talking with Dominion about solar and pilot programs.

Commissioner Grim stated that a public hearing is scheduled at Council’s next meeting for the proposed usage and rates for water and sewer and that Council is currently at a zero water percent increase and a two percent sewer increase. The public hearing is also for the proposed budget.

Commissioner Grim added that Mr. Lohr is retiring and will keep the Commissioners alerted of a celebration, and at Council’s next meeting, two will be interviewed for the Interim Town Manager position while Council looks at a search firm for the Town Manager position which both could also apply for.

CHAIRMAN’S COMMENTS:

Chairman Stein stated she appreciates staff’s work in getting the Comprehensive Plan information to the Commissioners.

PLANNING COMMISSIONERS’ COMMENTS:

Commissioner Paciulli thanked Daniel Galindo and staff for being patient and assisting with the building heights in downtown.

Commissioner Grim referenced an email from VRT that helped address the items brought up in preparation for the new rendering. Commissioner Grim stated the Town does not have access to VRT’s contract until it has been signed.

APPROVAL OF MINUTES:

a. March 16, 2017 Regular Meeting

Commissioner Van Istendal made a motion to approve the minutes of the March 16, 2017 Regular Meeting and waive reading. The motion was seconded by Commissioner Stinnette and carried with one absent.

ADJOURNMENT:

With no further business, Chairman Stein closed the meeting at 9:00 PM.

Theresa Stein, Chairman

Diana Hays, Town Clerk